

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2787 of 2021

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1. Vijay Kumar S/o Deonandan Ray, Resident of Village - Morsandi, P.S.- Motipur, District - Muzaffarpur.
 2. Akhileshwar Prasad Yadav, S/o Late Fakirchand Ray, resident of Village - Gosaipur, P.S. - Sivaipatti, District - Muzaffarpur.
 3. Umesh Kumar, S/o Late Ram Sewak Sah, Resident of Village - Turki Khararu, P.S. Minapur, District - Muzaffarpur.
 4. Kapildev Thakur, S/O Haridwar Thakur, resident of Village - Patti Bokane, P.S. Patahi, District - East Champaran.
 5. Rakesh Kumar, S/o Late Jagdish Singh, Resident of Village - Laxmipur Bakhri, P.S. Mahua, District - Vaishali.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Human Resources and Development Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Deputy Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, East Champaran, Motihari.
5. The District Education Officer, West Champaran, Bettiah.
6. The District Programme Officer (Est.) East Champaran, Motihari.
7. The District Programme Office (Est.), West Champaran, Bettiah.
8. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Raj Shekhar, Advocate Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Kameshwar Kumar, GP-17

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 18-09-2023 Heard learned counsel for the parties.

2. The petitioners in the present case are praying for
the following reliefs:-

“(i) Issuance of a direction, order or writ including writ in the nature of “Mandamus” to directing and commanding the respondent authorities especially the respondent no. 2, 4 and 5 to appoint the petitioners on the post of



Assistant Teacher in pursuance of Advertisement no. 210/2010 as name of all the petitioners have recommended for appointment vide Memo No. 1136 dated 30/08/2019 under the signature of the Director, Primary Education, Government of Bihar, Patna the respondent no. 2.

(ii) Issuance of a direction, order or writ including writ in the nature of “Mandamus” to directing and commanding the respondents to appoint the petitioners on the post of Assistant Teacher in pursuance of Advertisement no. 210/2010 as all the petitioners have valid degree of Teacher training course duly recognised by the competent authority and number of candidates who got the Degree from Non-Government Primary Teacher Training College, Balughat, Muzaffarpur have already been appointed by the respondent authorities but candidature of this are kept in abeyance after counselling and selection but appointment letter were not issued to them;

(iii) Issuance of a direction, order or writ upon the respondent authorities to grant all subsequent benefit after appointment from the date of recommendation i.e. 30.08.2019.

(iv) Any other relief/reliefs that the petitioners may be found to be entitled in the facts and circumstances of the present case.”

3. Learned counsel for the petitioners submits that the petitioners were recommended for appointment against the 34,540 vacancies of the Assistant Teachers and their names appear in the list which was approved by the Hon’ble Supreme Court in SLP (C) No. 26824 of 2012. Learned counsel submits that when the petitioners appeared in counselling and submitted all the documents, they were served with a show cause notice vide Annexure ‘3’ to the writ application calling upon them as to why



their candidature should not be cancelled on the ground that the institution from which they got training certificate is in the list of forged institutions. The petitioners submitted their show cause but the respondent nos. 4 and 5 referred the matter to the Director, Primary Education and did not take any decision in the matter and remained sitting over the same.

4. Learned counsel submits that vide order dated 04.10.2016 passed in CWJC No. 4506 of 2016 and other analogous cases, a learned Co-ordinate Bench of this Court declared the validity of the training certificates of the petitioners' college, namely, Non-Government Primary Teacher Training College, Balughat, Muzaffarpur and the same has also been affirmed in LPA No. 1309 of 2017 and analogous LPA vide order dated 06.10.2018.

5. Learned counsel further submits that recently in LPA No. 1254 of 2016 and other analogous matters, the Hon'ble Division Bench of this Court has held, in case of termination of the teachers who were appointed from amongst 34,540 list that such appointments should not have been disturbed in any manner in view of the order dated 18.07.2013 passed by the Hon'ble Supreme Court in SLP (C) No. 26824 of 2012.

6. Learned counsel submits that since the petitioners had already been appointed and they were stopped from joining



because of completely illegal action of the respondents, they cannot be allowed to suffer. The ratio of judgment of the Hon'ble Supreme Court in SLP (C) No. 26824 of 2012 and the judgment of the Hon'ble Division Bench of this Court in LPA No. 1254 of 2016 shall equally apply to the petitioners.

7. A counter affidavit has been filed on behalf of the State wherein it is stated in paragraph '5' that the Director, Primary Education, Bihar, Patna had vide its Memo No. 1136 dated 30.08.2019 sent a list of 66 candidates relating to appointment of Teachers under 34,540 category in which the name of some candidates including the writ petitioners who figured to have obtained their degree of Teachers Training Course from Non-Government Primary Teacher College, Balughat, Muzaffarpur. This paragraph refers to Letter No. 108 dated 26.02.2013 of the Department by which the degree/certificates of the said training college has neither been approved by the State Government nor by the National Council for Teacher Education. It is stated that the District Education Officer, East Champaran, Motihari had written in this regard to the Director, Primary Education, Bihar and a response from his office is still awaited. A copy of the letter contained in Memo No. 949 dated 16.04.2022 has been brought on record vide Annexure 'F' to the counter affidavit in which the judgment of this Court in LPA No. 1309 of 2017 has been quoted



and guidelines has been sought for.

8. Having regard to the facts of the case and the materials available on the record, this Court finds that the matter relating to the joining of the petitioners have been kept pending because of complete inaction on the part of the respondent authorities. The Director, Primary Education, Department of Education, Government of Bihar is sitting over the matter despite the letter as contained in Memo No. 949 dated 16.04.2022 written by the District Education Officer, East Champaran, Motihari. This has resulted in not acting in accordance with the judgment of this Court in LPA No. 1210 of 2017 arising out of CWJC No. 4506 of 2016. It appears from Annexure '9' to the writ application which is a copy of letter no. 584 dated 08.06.2017 that the said letter was written as back as on 08.06.2017.

9. This Court, therefore, directs that immediate step shall be taken to implement the judgment of this Court, consider the case of the petitioners in the light of the judgments and allow them to join if they were appointed under the 34,540 list. They would also be entitled for the consequential benefits which would be allowed to the similarly situated persons who are covered by the judgment of the Hon'ble Division Bench of this Court in LPA No. 1254 of 2016. Let the complete exercise be done within a period of two months from today.



10. For sitting over the matter and compelling the petitioners to move this Court and even during two and half years of the pendency of the writ application, the respondents did not take care to take a decision in the light of the judgment of this Court, this Court imposes a cost of Rs.25,000/-(Rupees Twenty Five Thousand Only/-) upon the respondents which they would be liable to pay to the petitioners as cost of litigation. This money shall be realised by the State after fixing responsibility upon the erring officials because of whom the decision was not taken for all these years.

11. This writ application stands allowed.

(Rajeev Ranjan Prasad, J)

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